APPEAL NO. 020197
FILED MARCH 11, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 3, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable injury on _____, and had disability from May 18, 2001, through August 13, 2001. On appeal, the appellant (self-insured) argues that the claimant was not acting within the course and scope of his employment at the time of the injury and, consequently, did not sustain a compensable injury and did not have disability. The claimant urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable injury and had disability. We are not persuaded by the self-insured's argument that Maryland Casualty Company v. Brown, 115 S.W.2d 394 (Tex. 1938) is controlling in this case. In Texas Workers' Compensation Commission Appeal No. 970671, decided May 29, 1997 (Unpublished), the Appeals Panel cited Maryland Casualty Co. v. Brown, 131 Tex. 404, 115 S.W.2d 394 (1938) for the proposition that "a violation of instructions of an employer by an employee will not destroy the right to compensation, if the instructions relate merely to the manner of doing the work, but that violation of instructions which are intended to limit the scope of employment will prevent a recovery of compensation." However, in the present case, the hearing officer considered whether the *employer* had violated the *employee's* medical restrictions.

The hearing officer determined that the claimant was injured while furthering the affairs of the employer, and concluded that the claimant sustained a compensable injury and had disability. Section 410.165(a) provides that the contested case hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. We have reviewed the complained-of determinations and we conclude that they are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The decision and order of the hearing are affirmed.

The true corporate name of the self-insured is **GENERAL MOTORS CORPORATION** and the name and address of its registered agent for service of process is

CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.

Chris Cowan
Appeals Judge

CONCUR:

Robert E. Lang
Appeals Panel
Manager/Judge

Michael B. McShane
Appeals Judge